

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

MICHAEL E. KEFAUVER, SR.	:	CIVIL ACTION NO. 1:09-CV-2158
	:	
Petitioner	:	(Judge Conner)
	:	
v.	:	
	:	
	:	
GERALD ROZUM, ATTORNEY	:	
GENERAL OF THE STATE OF	:	
PENNSYLVANIA	:	
	:	
Respondent	:	

ORDER

AND NOW, this 21st day of December, 2009, upon consideration of the election form (Doc. 9)¹, in which petitioner elects to withdraw his petition with the intent of filing an all-inclusive petition under 28 U.S.C. § 2254, it is hereby ORDERED that:

¹Because construing and ruling upon the petition under 28 U.S.C. § 2254 may preclude petitioner from filing a second or successive petition for writ of habeas corpus, see id. § 2244(b) (providing that a “second or successive habeas corpus application” under § 2254 may be filed only in limited circumstances and with approval by a court of appeals); Mason v. Myers, 208 F.3d 414, 417-18 (3d Cir. 2000) (instructing district courts to provide notice to pro se petitioners of potential ramifications of filing petition under § 2254); but cf. Pliler v. Ford, 124 S. Ct. 2441, 2446 (2004) (disapproving of requirement that district courts give habeas petitioners warnings related to exhaustion and statute of limitations), petitioner was afforded the opportunity to have his petition construed and ruled upon under 28 U.S.C. § 2254 or elect to withdraw the petition. (Doc. 8).

1. The petition for writ of habeas corpus is DEEMED voluntarily withdrawn without prejudice.
2. The clerk of court is directed to CLOSE this case.

S/ Christopher C. Conner
CHRISTOPHER C. CONNER
United States District Judge